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**BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001**

POSTAL RATE AND FEE CHANGES, 2000

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Docket No. R2000-1

BRIEF OF THE COALITION OF RELIGIOUS PRESS ASSOCIATIONS

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BRIEF OF COALITION OF RELIGIOUS PRESS ASSOCIATIONS

(DOCKET R-2000-1)

I. OVERVIEW OF CRPA AND THE CRISIS NONPROFIT PUBLISHERS FACE

The Coalition of Religious Press Associations, (CRPA) is a publishers' association whose primary interests in this case are (1) the rates and rate design for periodicals proposed by USPS in this docket, and (2) the deleterious effect those rates will have on the members of CRPA. CRPA has been and is an active intervenor in every major rate and classification case before the Commission since enactment of the Postal Reorganization Act of 1970 ("The Act").

CRPA is a broadly ecumenical and interfaith group whose members share a commitment to contribute needed and wanted information to the millions of readers of religious publications in the United States. Religious periodicals are the largest component of periodical nonprofit mail, TR9/3696, comprising approximately 38% of the subclass. The typical CRPA newspaper or magazine, like the preponderance of periodicals, is a smaller circulation periodical, with most CRPA members' circulations below 20,000 copies per issue.

TR30/14433. CRPA periodicals primarily use the current nonprofit periodical rate schedule, and the "real price" of mailing these and other nonprofit publications has increased 22% over the past five years¹. TR9/3620. It appears, based on the record, that small-circulation, nationally distributed nonprofit publications face the largest rate increase of all the various kinds of newspapers, journals, magazines and other periodicals that comprise Periodical mail,

¹These rates have been substantially increased twice in the past four years - once as a result of "reclassification" which raised rates practically simultaneously with the end of the phasing out of congressional subsidies for nonprofit mail, and more recently in January, 1999, when rates recommended in Docket R97-1 went into effect. According to USPS' testimony in this case, the "lag" effect of the most recent increase remains, as a 20%+ increase for many nonprofit publications looms. TR 9/3703 (Tolley cross-examination);

frequently exceeding 20% increases over current rates. TR30/144438,14470.² Many CRPA publications are national in distribution. Others are relatively local, directing editorial efforts to a city, county, region or state, but these face unprecedented rate increases as well, although perhaps not quite as large as national publications. But practically all of the nearly 1,300 member periodicals of CRPA rely solely on the Postal Service for their delivery, and therefore the significant increases that threaten them will absorb substantial dollars from editorial budgets, causing a drop in the quantity of resources that denominations of every faith can or will commit to publishing.³

In the case of a state-wide publication like the *Virginia United Methodist Advocate*, the rate hikes are approximately at or in excess of the average 12.7% proposed by USPS. TR30/14347-48. In the words of CRPA Witness Horton, editor of this important publication for the United Methodist congregations of Virginia, the 12% increase the *Advocate* faces (and it is more workshared than most religious periodicals because of its state-bounded circulation area) is "about 10% less than what most nonprofit national publications will pay." TR30/14349. But as to "a 12% increase come next January", Rev. Horton states that a lesser increase is no "gift".⁴ Rev. Horton then explains that since he assumed his editorial duties in Richmond in

²Witness Stapert described a model composite nonprofit periodical which is representative of CRPA members. This high-editorial (80%), lightweight periodical (4 oz.), would suffer a 21.8% increase if the proposed combined Periodicals rate schedule proposed by USPS is used; the same publication would suffer a 26.3% increase if separate rate schedules between nonprofit and regular rate publications were maintained, but all other cost factors remained the same. TR30/14438.

³Witness Tolley's econometric data and Witness Thress' volume trends show that there has been and will be a steady decline in nonprofit periodical volume during the period of time that extraordinary cost and rate increases assigned to periodicals have occurred and are predicted to occur. TR9/3750. This quantifiable reduction in information requested by the American public harms both the public and the nonprofit organizations which collect and distribute the information. This development is serious, harmful to the diversity of ideas, and strikes at the heart of the Postal Service's mandate to "bind the nation together". 39 USC 101(a). See PRC Rec. and Op., Docket MC95-1, at III-5: "The role of postal delivery of periodicals in binding the nation together by contributing to an informed populace has historically justified separate treatment for this mail and it continues to do so today."

⁴A similar situation faces the *Consumers Union* magazine, a nonprofit, all editorial content publication that mails at nonprofit rates, and that has significantly higher circulation and presortation than either the *Virginia United Methodist Advocate* or most nonprofit periodicals. See, Direct Testimony Louis J. Milani, ANM-T-2.

1986, there has been a 100% increase in subscription rates whereas the publication is published fewer times per year, resulting in 27% fewer issues to the reader. TR30/14349.

The failure of USPS to adequately take advantage of publishers' willingness to spend money to barcode their publications, like the *Virginia United Methodist Advocate*, and to comply with other worksharing requirements has led to unjustified and escalating costs attributed to periodicals.⁵

In addition, *The Nation*, a longstanding, respected journal of opinion, has filed testimony sponsored by its Editorial Director, Victor Navasky, which illustrates that even regular-rate periodicals of limited circulation, which barcode and presort to relatively high levels, will not be able to fully absorb the proposed postal increases. This will consequently impair its capacity to maintain and improve editorial quality. TR 28/13358-13363.

Despite the relatively large amount of worksharing *The Nation* does, the ever-escalating, inexplicable costs allocated by USPS to periodicals would swamp *The Nation's* strenuous efforts to economize. *The Nation* faces an 18.6% increase or an additional \$140,000 per year in postage, if the USPS rates are approved. That incremental amount is a tremendous cost increase: for example, it is over one-half of what *The Nation* spends on independent writers and reporters. Witness Navasky's testimony refers to the danger of significant harm to other high-editorial, nationally circulated smaller volume journals. Witness Navasky reports on the trepidation of the members of the Independent Press

⁵Unfortunately, during the course of the rate case, USPS occasionally would try a "blame the victim philosophy". See, e.g., the Direct Testimonies of Witness O'Tormey and Unger, USPS-ST-42 and ST-43, respectively. These witnesses unsuccessfully tried to claim that service commitments for periodicals, along with the size, shape and packaging of this mail, had caused escalation of attributable costs in recent years, even though increasingly, periodicals (including smaller circulation periodicals like the *Nation* or the *Virginia United Methodist Advocate*) are dropshipped, barcoded, and presorted. See, TR 21/8247; 8250 (O'Tormey). See also, TR21/8276: "I can't answer why costs for periodicals are going up". (Unger).

Association, to which over 200 high editorial specialized journals belong, including *The Nation*, as follows: "The proposed new rates could put a number of them out of business. TR28/13363.

The current rate proposal for periodicals will steepen the downward slope of nonprofit periodical volumes which has occurred since 1996. TR30/14459. Indeed, the relatively high elasticity of nonprofit periodicals estimated in this case may have been underestimated, because USPS failed to incorporate "user costs", like the expense of mail preparation, in its forecasting equations: "In the case of periodical mail, we were not asked by the Postal Service to forecast periodical mail by presort or automation level, and, therefore, had no occasion to do so.", TR9/3794. (USPS Witness Thress). Had USPS asked Witness Thress to make this forecast, he believes that the estimated price elasticity for periodicals in this case, including for nonprofit periodicals, might have been higher. TR9/3795. Since the volumes of nonprofit publications have a greater sensitivity to postal rate changes than volumes of regular rate publications, there could be greater-than-predicted volume loss for nonprofit periodicals if the USPS Request is implemented. This disturbing downward trend in volumes can only be accelerated by what Time Warner Witness Stralberg describes as "the magnitude of the problem faced by Periodical mailers, whose reported costs have increased at alarming rates for many years, and without knowing any more about the underlying causes than Postal Service witnesses chosen to address the issue in prior dockets." TW-T-1, at 18. The result is "The continuing decline of nonprofit periodical mail", which "is not a 'good' thing, but its relatively higher elasticity than other periodicals and USPS' probable underestimation of the full effects of the proposed increase on periodicals presents another compelling argument for rooting out unnecessary and doubtful costs from nonprofit attributable costs." TR30/14444, (CRPA Witness Stapert).

II. CRPA ENDORSES THE PERIODICAL COST REDUCTIONS AND REDUCTION IN THE PROPOSED CONTINGENCY PRESENTED BY THE PERIODICAL MAILERS

CRPA is a co-sponsor of the various witnesses who have testified under the umbrella of the Periodical Mailers coalition, which consists of both large and small volume publications, for-profit and non-profit. It is overall, without doubt, or precedent, the most representative voice of the publishing world ever to testify on periodicals rates in the history of this Commission.

Thanks to testimony of the Periodical Mailers coalition, as summarized in the joint brief of which CRPA is a co-sponsor, the Commission has the substantial evidence it needs to correct the large over-attribution of costs to both regular and nonprofit publications.⁶

A Joint Brief filed by the Direct Marketing Association and other parties, including CRPA, explains why at most a .25% contingency is sensible, given the proximity of the Test Year to the present and to recent relevant cost data about the Test Year which is now known. CRPA also endorses, as proposed by ABM and the Periodicals Mailers, no contingency assignment to periodicals. Witnesses Buc, Haldi, Rosenberg, Burns, Morrow and Bernheimer have all leveled targeted, accurate critiques which expose and thus should expunge USPS' hollow explanations for a 2.5% contingency. The collective detail and opinion of these experts justify Witness Stapert's concern about the impact of a bloated contingency, in addition to inflated attributed costs, on small, nonprofit publications: "And that is where my passion is, because I care about those periodicals" which will suffer increases "in the low 20s in terms of percentage increase." TR30/14504.

⁶See, Direct Testimony of Rita D. Cohen, MPA-T-1; Supplemental Testimony of Rita D. Cohen, MPA-ST-1. This testimony succinctly summarizes the Publishers' criticisms of the over-attribution of costs to Periodicals, as well as the reasonably expected costs savings, breakthrough and otherwise, which USPS may expect to enjoy in the imminent Test Year of 2001.

III. THE OVER ATTRIBUTION OF COSTS TO PERIODICALS HAS UNACCEPTABLY CONSTRAINED THE FLEXIBILITY OF THE COMMISSION TO CONSIDER ALL RATE MAKING CRITERIA OF THE POSTAL REORGANIZATION ACT

Correction of the level of cost attribution to periodicals will enable the Commission to have an objective base upon which to establish a limited, but reasonable cost coverage for periodical mail in accordance with the non-cost criteria of sec 3622(b) of the Act, especially sec. 3622(b)(8)- "ECSI". That subsection mandates the Commission to give meaningful weight to "the educational, cultural, scientific, and informational value to the recipient of mail matter".

In addition to the aforementioned sec. 3622(b)(8), sec. 3622(b)(4) directs the Commission to consider "effect of rate increases upon the general public, business mail users, and private enterprises which deliver mail matter other than letters". By loading excessive cost estimates onto periodicals, USPS has unnecessarily constricted the discretion of the Commission to balance its longstanding support of a relatively low cost coverage for periodicals with its mandate to attribute all costs demonstrably related to a subclass.⁷

USPS focuses on an "average" proposed increase of 12.7% increase as the purported impact of higher periodical costs. See, e.g., USPS-T-32 at 8, USPS-T-32, Ex.D, TR11/4574. This estimate of impact is made in terms of the number of pieces, i.e., volumes, affected, and not the number of publications or organizations affected. TR.17/6959. In the words of USPS Witness Taufique: "I have no way of knowing how mailers are being affected." TR17/7027. However Witness Taufique does acknowledge that "some [periodicals] were paying significantly higher than the 12.7%", Id., at 7031.

⁷USPS has created a cost-bound straightjacket for periodical pricing, which prevents reasonable consideration of ECSI or impact in a normal fashion (other than to suggest practically no cost coverage at all for periodicals, which results in 20%+ increases for the smaller volume publications which comprise much of the class). This approach is similar to what would have happened if USPS' ill-fated reclassification of regular rate periodicals had been approved in Docket MC95-1: "To the extent that the Service suggests a classification schedule which reduces the importance of content and mailer characteristics, it would be less, rather than more, feasible to accommodate these concerns in allocating institutional costs." Op. and Rec. Dec. at III-51.

Witness Taufique's analysis, TR 17/7028, like Witness Mayes', TR 11/4574, attempts to reverse the force of sec. 3622(b)(4), treating "impact" as if it primarily applied to the Postal Service, rather than as intended in the legislation - to the mailers and to the recipients of the mail. Thus the Postal Service, whether knowingly or carelessly, fosters the impression that rate criterion (b) (4) can be satisfied by a consideration of what happens to Postal Service aggregate volumes.

The Postal Service's testimony on this point is especially troubling since the number and type of periodical permits is known. TR 17/6959. Moreover, both Witnesses Mayes and Taufique are aware of longstanding controversies concerning the accuracy of periodical costing. TR17/7020; TR 11/4567. But both witnesses expect this uncertainty to continue into the indefinite future. For example, Witness Taufique states: "I think it's highly unlikely at this point in time, in this rate case, especially, that this thing would change, TR 17/7022. (See also, Witness Mayes' similar comments at TR 11/4567.) CRPA realizes that rate design witnesses probably cannot do much about the level of costs of mail they have to distribute to a subclass, since the costs are developed by someone else. But the Commission has the authority to break this vicious cycle of costs that flies in the face of common sense and of inefficient expenditures that are attributed to periodicals, by utilization of the data offered by the Periodical Mailers coalition.

USPS witnesses Taufique and Mayes emphasize, to the exclusion of any other relief option for periodical nonprofits, the 5% discount off regular rates which nonprofit and classroom publications would receive when and if Congress adopts legislation to combine nonprofit, regular and classroom periodicals into one rate subclass. TR 11/4574, 17/6964. These witnesses use an odd method to solve the rate anomaly problem that affects some nonprofit volume. They have proposed elimination of the historic and valuable nonprofit

periodical subclass based on a "premise" that Congress might pass legislation to authorize that change. TR11/4575.

The anomaly between nonprofit and regular rates for which elimination of a separate nonprofit subclass is proposed, has occurred because USPS has an irrational costing system for periodicals which produces irrational results, one example being that in some instances it is less expensive for a nonprofit publication to mail at regular rates than at nonprofit rates. This absurd situation has come about even though Witness Taufique testified that the cost per piece for Regular Periodicals in the Test Year is 26.262 cents, whereas the cost per piece for Nonprofit Periodicals in the Test Year is 18.483 cents, which led to the obvious conclusion that "[T]he average cost per piece for Nonprofit Periodicals is lower than the average cost per piece for Regular Periodicals." TR17/6968. USPS Witness Mayes agrees that if the attributable costs underlying the anomaly were flawed, and that flaw were corrected, then the anomaly would no longer exist. TR 11/4593. If that happened, there would be no reason not to maintain separate periodical subclasses.

CRPA agrees that it is a good thing and sound policy for nonprofit publications to pay lower postage than comparable regular rate publications. But, when the various periodical rate schedules for periodicals produced in this case by USPS are carefully examined as to their respective impacts on nonprofit periodicals, it is truly an awful choice offered to nonprofit publishers. Nonprofit publications would pay exorbitant and inequitable rates under either a unitary Periodicals Class rate schedule, with a 5% discount for nonprofit publications, or under a schedule which maintains separate regular and nonprofit mail subclasses, with the same costs attributed across all of these schedules. See, e.g., TR 17/6951-52; 6955,

IV. CONCLUSION

CRPA, having considered the evidence in the case and having reviewed the pertinent statutes, in particular 39 U.S.C. 101(a), 3622(b)(1),(b)(4) and (b)(8), urges the Commission to take the following steps in connection with the rates and fees proposed in this case:

- recognize the crisis nonprofit, smaller publications like those published by CRPA and similarly situated publishers face if the 15%+ average increases proposed by USPS are implemented;
- adopt the proposed revenue requirement proposed by ABM Witness Morrow
- reject the proposed USPS contingency requirement for the reasons set forth by DMA, et al. ;
- accept the periodical cost reductions as finally developed and presented by the Periodical Mailers;
- accept the cost consequences of the analyses of the Periodical Mailers regarding mail processing, transportation and carrier costs;
- If the Commission does choose to make substantial reductions in costs attributed to periodicals, seriously consider whether or not it is in the public interest to merge nonprofit and classroom periodicals into the same subclass as regular-rate periodicals. (This recommendation of course is contingent on whether or not Congress passes pending legislation to merge those subclasses by the time of issuance of the Commission's Opinion and Recommended Decision.)

Respectfully submitted,

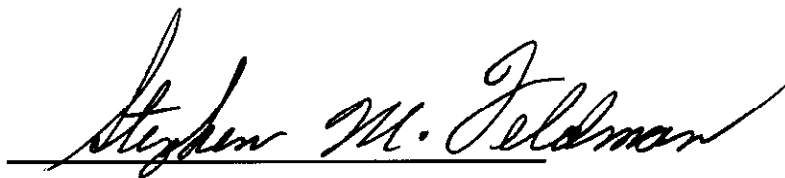


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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document
upon all participants of record in this proceeding in accordance with section 12 of the
Rules of Practice.



Stephen M. Feldman, Esq.

September 13, 2000